

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

SCANNED

UNITED STATES OF AMERICA,

Case No: 99-cr-0175-1

Plaintiff,

-vs-

CHARLES STUBBS,

Defendant.

MOTION TO WITHDRAW MOTION TO VACATE,
SET ASIDE, OR CORRECT SENTENCE BY A PERSON
IN FEDERAL CUSTODY PURSUANT TO 28 U.S.C. §2255
WITHOUT PREJUDICE PER COURT'S ORDER OF DECEMBER 12, 2005

NOW COMES Charles Stubbs, the Defendant, in pro se, and motions this Honorable Court to withdraw his Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody Pursuant to 28 U.S.C. §2255 per this Honorable Court's Order dated December 12, 2005, and states the following in support thereof:

1. That on November 9, 2005, the Defendant filed a timely Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody Pursuant to 28 U.S.C. §2255 in this Honorable Court.

2. That on November 27, 2005, the Defendant filed a Motion to Hold in Abeyance his Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody Pursuant to 28 U.S.C. §2255 pending the outcome of his Petition for Writ of Certiorari in the United States Supreme Court seeking review of the denial of his Motion to Recall Mandate in the United States Court of Appeals for the third Circuit.

3. That on December 12, 2005, this Honorable Court issued an "informal 'Order'" instructing him: (a) that his Motion to Hold in Abeyance was denied; and (b) that he could file a Motion Withdraw his Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody Pursuant to 28 U.S.C. §2255 without prejudice to refile after final determination by the United States Supreme Court of his Motion to Recall Mandate via Petition for Writ of Certiorari. (See Defendant Exhibit 1 attached hereto).

4. That the granting of this motion will promote judicial economy and conserve judicial resources in this Honorable Court.

5. That the granting of this motion will not prejudice the government.

WHEREFORE, the Defendant respectfully requests that this Honorable Court will grant this motion and issue an Order to Withdraw his Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody Pursuant to 28 U.S.C. §2255 without prejudice to refile after a final decision, or ruling, by the United States Supreme Court of his Petition for Writ of Certiorari seeking review of the denial of his Motion to Recall Mandate by the United States Court of Appeals for the Third circuit, and that thereafter, said refiling of his §2255 motion be within 180 days of that decision, or ruling, by the United States Supreme Court.

12/28/05
The Motion to Withdraw is
granted.
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Anetta K. Ambrose